IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOFALED

AUG 2 6 2013

CRIMINAL ACTION NO. 85-2690-RUS DIST. COURT, WISSEN DIST. OF OKLA BY_______DEPUTY

UNITED STATES OF AMERICA,

CIV-13-914

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BRIAN PATRICK SPENSER PERCEVAL, DEFENSANT-PETITIONER.

> PETITION FOR A DRIT OF ERROR LORAM NOBIS

COMES NOW BEFENDANT-PETITIONER

BRIAN PATRICK SPENSER PERCEVAL, IN MIS OWN

AND PROPER PERSON, AND PURSUANT TO TITLE

28 UNITED STATES LODE \$ 1651 MEREBY

PETITIONS THIS HONORABLE LOCAT TO GRANT

A WRIT OF ERROR LORAM NOBIS IN THE ABOVE

ENTITLES MATTER.

IN SUPPORT THEREOF SEFENSANT-PETITIONER STATES AS FOLLOWS:

FACTS

IN 1985 THE SEFENSANT-PETITIONER WAS CONVICTES IN THIS COURT FOR POSSESSION OF AN OBJECT THAT MAY BE USES AS A WEARON. TITLE 18 U.S.C. \$1791(a)(2), EMPLASIS ABLES. DEFENDANT-PETITIONER WAS THEN SENTENCES BY YOUR HONOR TO A ONE YEAR TERM OF INPRISON-MENT TO RUN CONSECUTIVELY TO THE TEN YEAR TERM HE WAS SERVING AT THE TIME FOR BANK LARCENY, THERENFTER APPEAL WAS TAKEN AND THE CONVICTION AFFIRMES ON OCT. 17, 1986. U. S. V. PERCEVAL, 803 Fd. 2 doi (10th CIR. 1986). ON Nov. 10, 1986 LONGRESS REVISES THE STATUTE UNKER WHICH HE WAS CONVICTED BY REPLACING THE TERM "MAY BE" WITH NESIGNES OR INTENSES". PUBLIC LAW 99-646, \$52(a), 100 STAT, 3606. FOLLOWING THIS BEFENSANT-PETITIONER HIMSELF FILES A FURTHER APPEAL TO THE UNITER STATES SUPREME COURT. WHICH WAS BENIES.

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DEFENSANT-PETITIONER SOES NOT MAVE THE
CASE NUMBER BUT BELIEVES IT WAS SENIES AS
UNTIMELY, OR THAT THE CHANGES MASE TO \$1791
WERE NOT RETROACTIVE.

SEFENSANT-PETITIONER HAS FULLY SERVES
HIS TERMS OF IMPRISONMENT, PAIS ALL FINES, AND
HAS HAS SOME OF HIS CIVIL RIGHTS RESTORED

(SUCH AS THE RIGHT TO VOTE AND SERVING ON A

JURY), IS NOW 66 YEARS OLD AND RETIRES ON
A SMALL PENSION.

ON MAY 9, 2012 SEFENSANT PETITIONER

WAS ARRESTED AND EMARGES DITH A 2 SEGREE

ASSAULT, A FELONY. SEE EXHIBIT A'. A FURTHER

CHARGE, ANOTHER FELONY, OF INJURY TO A VICTIM,

WAS ALSO ABSES. FOLLOWING A PROTRACTES

PERIOD OF NEGOTIATIONS DEFENDANT-PETITIONER

EVENTUALLY PLES GUILTY TO AN ATTEMPTED

ASSAULT, A 3 THE CLASS MISSEMEANOR.

HOWEVER, PRIOR TO THE PLEA AGREEMENT WAS REACHES THE ARAPANOE COUNTY SISTRICT ATTORNEY WAS INTENT ON FILING AGAINST HIM UNSER COLORASO'S MASITUAL DEFENSERS ACT, CITING THIS CONVICTION AS ONE OF THE PRESICATE FELONIES FOR SUCH. THAT MEANT HE WAS FACING A POSSIBLE TERM OF 48 YEARS IN PRISON. 6 YEARS FOR EACH FELONY, RUN CONSECTIVELY, MULTIPLIES BY 4 AS AN HABITUAL OFFENSER. C.R.S.A. \$20.14.

GROUNDS FOR WRIT

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SEFENSANT-PETITIONER ARGUES AT TRIAL,

AND ON APPEAL, THAT THE STATUTE UNSER WHICH

HE WAS CHARGES AND CONVICTED REQUIRES INTENT.

AT TRIAL NO INTENT, OF ANY KIND, WAS OFFERED BY

THE GOVERNMENT.

TIS IRONIC THAT LONGRESS AMENSES THE
STATUTE SOME 24 DAYS AFTER THE CONVICTION

LAS AFFIRMES. SEE, U.S. V. ROSRIGUEZ,

45 Fd. 3rd 302 (9^{td} (IR. 1995), REVERSES

AND REMANSES, (REQUIRES PROOF OF SPECIFIC

INTENT ON PART OF SEFENSANT).

MAS SEFENSANT-PETITIONER BEEN TRIES UNSER THE AMENSES VERSION OF \$1791 THE GOVERNMENT COULS NOT HAVE SHOWN ANY INTENT, MUCH LESS SPECIFIC, AS THERE WAS NONE.

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SERENBANT-PETITIONER MAS SERVES THE SENTENCE IMPOSES BY THIS COURT YET, TO THIS BAY, IS SUBJECT TO ENHANCES PENALTIES FOR ANY SUBSEQUENT OFFENCE.

TO BE EXPOSES TO SUCH PENALTIES FOR

AN OFFENCE WHICH WAS NOT VIOLENT, AND WHICH

CONGRESS AMENSES TO INCLUSE WHAT SEFENSANT
PETITIONER HAS ALWAYS ASSERTES TO BE LACKING,

IS NOT COMPATIBLE WITH THE INTERESTS OF

JUSTICE AND SERVES NO USERUE PURPOSE.

CONCLUSION

DHEREFORE, PREMISES CONSIBERES,
THE SEFENSANT-PETITIONER PRAYS THAT THIS
HONORABLE COURT GRANT THE WRIT ANS
EXPUNGE THE CONVICTION IN THIS CASE.

RESPECTFULLY SUBMITTED THIS 15T BAY OF AUGUST, 2013.

Brian Patrick Spenser Sercen L
BRIAN PATRICK SPENSER PERCEVAL
SEFENSANT-PETITIONER PRO SE
1255 19th St., Apt. 1704
SENVER, CO 80202-1434
TEL. 720-329-4608

"EXMISIT A"

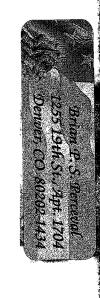
CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT A TRUE AND CORRECT
COPY OF BEFENDANT-PETITIONER'S PETITION FOR A
PRIT OF ERROR CORAM NOBIS, AND APPLICATION TO
PROCEED IN FORMA PAUPERIS, WAS MAILED, POSTAGE
PRE-PAID TO COUNSEL FOR PLAINTIFF AT THE
FOLLOWING ABBRESS:

UNITES STATES ATTORNEY
WESTERN SISTRICT OF DRUMMONA
210 WEST PARK AVENUE
SUITE 400
OKLAHOMA LITY
OK 73102

ON THE 22 DAY OF AUGUST, 2013

Brian Patrick Spenser Percent BRIAN PATRICK SPENSER PERIFUAL SEFENSANT-PETITIONER 1255-19th St., Apr. 1704 SENVER, CO 80202-1434 TEL: 720-329-4608



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Clerk, U.S. District Court
WEST.DIST.OF OKLA

